

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, TITLED PALM BEACH COUNTY FLOOD DAMAGE PREVENTION ORDINANCE; REPEALING ORDINANCE 88-3; PROVIDING FINDINGS OF FACT; PROVIDING FOR A STATEMENT OF OBJECTIVES; PROVIDING FOR METHODS OF REDUCING FLOOD LOSSES; PROVIDING FOR DEFINITIONS; PROVIDING FOR GENERAL PROVISIONS; PROVIDING FOR ADMINISTRATION; PROVIDING FOR PROVISIONS FOR FLOOD DAMAGE PREVENTION; PROVIDING FOR GRADING AND EARTH FILL RESTRICTIONS; PROVIDING FOR APPEAL AND VARIANCE PROCEDURES; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE ULDC; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Chapter 125, Florida Statutes, authorizes the legislative and governing body of Palm Beach County the power to establish and administer programs of flood control; and

**WHEREAS**, the present Flood Damage Prevention Ordinance, 88-3, as codified, has been in effect since February 23, 1988; and

**WHEREAS**, the Board of County Commissioners of Palm Beach County, Florida has the responsibility to adopt regulations designed to promote the public health, safety and general welfare of its citizens; and

**WHEREAS**, Palm Beach County has determined that the present Flood Damage Prevention Ordinance is insufficient in providing the maximum public health, safety and general welfare of its citizens; and

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA**, as follows:

**SECTION 1. TITLE:**

This Ordinance shall be titled the "Palm Beach County Flood Damage Prevention Ordinance".

**SECTION 2. REPEAL OF ORDINANCE 88-3:**

Article VI, Chapter 7 of the Palm Beach County Code, codifying Ordinance No. 88-3 (The Palm Beach County Flood Damage Prevention Ordinance) is hereby repealed.

**SECTION 3. FINDING OF FACT:**

The flood hazard areas of Palm Beach County are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public

1 expenditures for flood protection and relief, and impairment of the tax base, all of  
2 which adversely affect the public health, safety and general welfare. Flood losses  
3 are caused by the cumulative effect of obstructions in Special Flood Hazard Areas  
4 (SFHAs) causing increases in flood heights and velocities, and by the occupancy  
5 in flood prone areas of uses vulnerable to floods or hazardous to other lands  
6 inadequately elevated, flood-proofed, or otherwise unprotected from flood  
7 damages.

#### 8 **SECTION 4: STATEMENT OF OBJECTIVES:**

9 The objectives of this Ordinance are to protect human life, health and  
10 safety; minimize expenditure of public money for costly flood control projects;  
11 minimize the need for rescue and relief efforts associated with flooding generally  
12 undertaken at the expense of the general public; minimize prolonged business  
13 interruptions; minimize damage to public facilities and utilities such as water and  
14 gas mains, electric, telephone, sewer lines, roadways, bridges and culverts  
15 located in flood prone areas; and to help maintain a stable tax base by providing  
16 for the sound use and development of flood prone areas in such a manner as to  
17 minimize adverse impact of new buildings and to minimize future flood blight  
18 areas; and to ensure that those obtaining building permits and potential buyers are  
19 notified of property that is in an SFHA.

#### 20 **SECTION 5: METHODS OF REDUCING FLOOD LOSSES:**

21 (A) In order to accomplish its objectives, this Ordinance includes methods and  
22 provisions for:

23 (B) restricting or prohibiting uses which are dangerous to health, safety, and  
24 property due to water or erosion hazards, or which result in adverse  
25 impacts from erosion, flood heights or floodwater velocities;

26 (C) requiring that uses vulnerable to floods, including facilities which serve  
27 such uses, be protected against flood damage throughout their intended  
28 life span;

29 (D) controlling the alteration of natural floodplains, stream channels, and  
30 natural protective barriers, which help accommodate or channel flood  
31 waters;

32 (E) controlling filling, grading, dredging, minimum floor elevations and other  
33 construction detail which may affect flood damage to buildings; and



1 (F) preventing or regulating the construction of flood barriers that will  
2 unnaturally divert floodwaters, which may increase flood hazards in other  
3 areas.

4 **SECTION 6. DEFINITIONS:**

5 Unless specifically defined below, words or phrases used in this Ordinance  
6 shall be interpreted so as to give them the meanings they have in common usage  
7 and to give this Ordinance its most reasonable application.

8 **(1) Accessory Building or Appurtenant Structure:** means a structure that is  
9 located on the same parcel of property as a principal structure and the use of  
10 which is incidental to the use of the principal structure. For purposes of this  
11 Ordinance, accessory structures should constitute a minimal investment not to  
12 exceed 25% of the value of the primary structure, shall not be used for human  
13 habitation, and be designed to have minimal flood damage potential. Examples of  
14 accessory buildings or appurtenant structures for flood damage purposes are  
15 detached garages, carports, storage sheds and barns. All structures used for  
16 human occupancy shall be deemed principal structures and shall comply with  
17 these regulations, and not be defined as an Accessory Building or Appurtenant  
18 Structure.

19 **(2) Addition:** (to an existing building) means any walled and roofed expansion to  
20 the perimeter of a building in which the addition is connected by a common load-  
21 bearing wall other than a firewall. Any walled and roofed expansion, which is  
22 connected by a firewall or is separated by independent perimeter load-bearing  
23 walls, is new construction, not an addition.

24 **(3) Adverse Impact:** the increased probability of damage to structures from  
25 flooding or from floodwater erosion.

26 **(4) Appeal:** a request for a review of the Flood Damage Prevention  
27 Administrator's interpretation of any provision of, or a request for a variance, from  
28 this Ordinance.

29 **(5) Area of Shallow Flooding:** a designated AO or AH Zone on the latest edition  
30 of FEMA issued FIRM for the county with base flood depths from one to three feet  
31 where a clearly defined channel does not exist, where the path of flooding is  
32 unpredictable and indeterminate, and where velocity flow may be evident. Such  
33 flooding is characterized by ponding or sheet flow.

1 **(6) Area of Special Flood Hazard:** (see Special Flood Hazard Area (SFHA)) the  
2 land in the floodplain which is subject to a one percent (1%) or greater chance of  
3 flooding in any given year (100-Year floodplain as defined by FEMA), and land  
4 developed into building sites without a master storm water drainage system.

5 **(7) Base Flood:** the flood event having a one percent (1%) chance of being  
6 equaled or exceeded in any given year (also called the "100-Year Flood" and the  
7 "Regulatory Flood").

8 **(8) Base Flood Elevation or BFE:** the highest water surface elevation associated  
9 with the base flood, set by FEMA in SFHAs.

10 **(9) Breakaway Wall:** a wall that is not part of the structural support of the building  
11 and is intended through its design and construction to collapse under specific  
12 lateral loading forces without causing damage to the elevated portion of the  
13 building or the supporting foundation system.

14 **(10) Building:** a structure that encloses an area for any use and shall not include  
15 structures such as walls, playground equipment or gas tanks.

16 **(11) Coastal High Hazard Area:** a SFHA extending from offshore to the inland  
17 limit of a primary frontal dune along an open coast and any other areas including,  
18 but not limited to, hurricane surges or subject to high velocity wave action from  
19 storms or seismic sources. The area is designated on the FIRM as Zone V1-V30,  
20 VE , or V.

21 **(12) Critical Facility:** a facility for which any flooding would adversely affect  
22 essential public services. Critical facilities include, but are not limited to, nursing  
23 homes, hospitals, police, fire and emergency response installations, or  
24 installations which produce, use or store hazardous materials or hazardous waste.

25 **(13) DCA:** State of Florida Department of Community Affairs

26 **(14) Development:** any man-made change of a building or other structure, or the  
27 carrying out of any activity to improved or unimproved real estate so as to change  
28 the use or appearance of the land, including, but not limited to mining, dredging,  
29 filling, grading, paving, excavating, drilling operations, or permanent storage of  
30 materials or equipment.

31 **(15) Elevated Building:** a non-basement building built to have the lowest floor  
32 elevated above the ground level by means of fill, solid foundation perimeter walls,  
33 pilings, columns, posts, piers or shear walls.



1 **(16) Encroachment:** the advance or infringement of uses, plant growth, fill,  
2 excavation, buildings, permanent structures or development into a SFHA, which  
3 may impede or alter the flow capacity of floodwaters.

4 **(17) Exceptional Hardship:** (as applied to variance criteria) A condition of a  
5 parcel of property which is unusual or exhibits peculiar physical characteristics.  
6 These characteristic(s) must be unique only to that property and not to be shared  
7 by adjacent parcels. These unique characteristics must pertain to the land itself,  
8 not to the structure, its inhabitants, or the property owners. Mere economic or  
9 financial hardship alone is not "exceptional". Inconvenience, aesthetic  
10 considerations, physical handicaps, personal preferences, or the disapproval of  
11 one's neighbors cannot, as a rule, qualify as exceptional hardships. A hardship  
12 shall **NOT** necessarily exist even if the alternative is more expensive, or requires  
13 the property owner to build elsewhere or put the parcel to a different use than  
14 originally intended.

15 **(18) Existing:** (as applied to building, development or structure) any man-made  
16 improvement on which the start of construction commenced before the enactment  
17 of the first Flood Damage Prevention Regulations adopted by the County,  
18 Ordinance 79-1, on January 31, 1979.

19 **(19) Existing Manufactured Home Park or Subdivision:** a manufactured home  
20 park or subdivision for which the construction of facilities for servicing the lots on  
21 which the manufactured homes are to be affixed, including, at a minimum, the  
22 installation of utilities, the construction of streets, and either final site grading or the  
23 pouring of concrete pads was completed before the effective date of the first Flood  
24 Damage Prevention Regulations adopted by the County, Ordinance 79-1, on  
25 January 31, 1979.

26 **(20) Expansions to an Existing Manufactured Home Park or Subdivision:** the  
27 preparation of additional sites by the construction of facilities for servicing the lots  
28 on which the manufactured homes are to be affixed, including at a minimum, the  
29 installation of utilities, the construction of streets and either final site grading or the  
30 pouring of concrete pads.

31 **(21) FEMA:** Federal Emergency Management Agency.

32 **(22) Flood or Flooding:** a general and temporary condition of partial or complete  
33 inundation of normally dry land areas from the overflow of inland or tidal waters;

1 or, the unusual and rapid accumulation or runoff of surface waters from any  
2 source.

3 **(23) Flood Boundary and Floodway Map or FBFM:** the latest edition of the  
4 official map on which the FEMA or Federal Insurance Administration (FIA) has  
5 delineated SFHAs and regulatory floodway.

6 **(24) Flood Damage Prevention:** the operation of an overall program of corrective  
7 and preventive measures for reducing flood damage and preserving and  
8 enhancing, where possible, natural resources in the flood prone areas including,  
9 but not limited to, emergency preparedness plans, flood control works, flood  
10 damage prevention regulations, open space plans, and setting of minimum floor  
11 elevations.

12 **(25) Flood Damage Prevention Administrator:** the county building official hereby  
13 appointed to administer and enforce these flood damage prevention regulations,  
14 including, but not limited to, all variance and appeal hearings before the Flood  
15 Damage Prevention Board or a designee of the Building Official's holding a FEMA  
16 Certified Floodplain Manager Designation.

17 **(26) Flood Damage Prevention Board:** a group of citizens appointed to the  
18 Construction Board of Adjustments and Appeals, who shall hear and decide  
19 variance requests and appeals made under this Ordinance.

20 **(27) Flood Damage Prevention Ordinance:** this regulation and FEMA  
21 documents referenced in Section 7B herein. In addition, there may be other  
22 controls on development in flood prone areas contained in Zoning Ordinances,  
23 subdivision regulations, building codes and other state and federal regulations.

24 **(28) Flood Hazard Boundary Map or FHBM:** the latest edition of an official map  
25 of the county, issued by FEMA that indicate approximate areas of 100-year flood  
26 hazards in a community.

27 **(29) Flood Insurance Rate Map or FIRM:** the latest edition of an official map of  
28 the county, on which FEMA has delineated both the FEMA SFHAs and the risk  
29 premium zones applicable to the county.

30 **(30) Flood Insurance Study or FIS:** the official hydraulic and hydrologic report  
31 provided by FEMA. The report contains flood profiles, as well as the FIRM, FHBM  
32 (where applicable) and the water surface elevation of the base flood.



1     **(31) Floodplain:** any land area susceptible to flooding, as defined in FIRM and  
2     any area without a master storm water drainage system.

3     **(32) Floodway:** the channel of a river or other watercourse, intercoastals, and the  
4     adjacent land areas that must be reserved in order to discharge the base flood  
5     without cumulatively increasing the water surface elevation more than twelve  
6     inches (12").

7     **(33) Hardship:** see Exceptional Hardship.

8     **(34) Highest Adjacent Natural Grade or HANG:** the highest natural elevation of  
9     the ground surface, prior to the start of any past or proposed construction,  
10    immediately next to the proposed exterior walls of a building.

11    **(35) Historic Structure:** any structure that is listed individually in the National  
12    Register of Historic Places (a listing maintained by the Department of the Interior)  
13    or preliminarily determined by the Secretary of the Interior as meeting the  
14    requirements for individual listing on the National Register or certified or  
15    preliminarily determined by the Secretary of the Interior as contributing to the  
16    historical significance of a registered historic or a district preliminarily determined  
17    by the Secretary to qualify as a registered historic district or individually listed on a  
18    state inventory of historic places in states with historic preservation programs  
19    which have been approved by the Secretary of the Interior; or individually listed on  
20    the Historic Palm Beach County Preservation Board's inventory of historic places.

21    **(36) HUD:** U.S. Department of Housing and Urban Development

22    **(37) Lowest Adjacent Roadway Crown or LARC:** the lowest elevation of any  
23    point in the crown of a street or road immediately next to the site of a new  
24    structure.

25    **(38) Lowest Floor:** the lowest floor of the lowest enclosed area (including  
26    basement) of a building. Any unfinished or flood resistant enclosure, used solely  
27    for parking of vehicles, building access, or storage, in an area other than a  
28    basement, is not considered a building's lowest floor, provided that such enclosure  
29    is not built so as to render the structure in violation of the non-elevation design  
30    standards of this Ordinance.

31    **(39) Manufactured Home:** a single-family dwelling constructed entirely in a  
32    controlled factory environment built to HUD standards; defined in 24 CFR 3280.2  
33    Subpart A Definitions as amended or replaced, as a structure transportable in one

1 or more sections, which in the traveling mode, is eight body feet or more in width  
2 or forty body feet or more in length, or when erected on site, is three hundred and  
3 twenty or more square feet, and which is built on a permanent chassis and  
4 designed to be a dwelling with or without a permanent foundation when connected  
5 to the required utilities which includes the plumbing, heating, air conditioning and  
6 electrical systems contained therein. For the purpose of this Ordinance, "mobile  
7 home" is considered to be synonymous with manufactured home. The term  
8 includes, but is not limited to, park trailers, travel trailers and commercial trailers  
9 placed on site for 180 consecutive days or longer and intended to be improved  
10 property. Those manufactured buildings for residential, commercial, institutional or  
11 other use, constructed under DCA programs for compliance with Florida Building  
12 Code are excluded from this definition.

13 **(40) Manufactured Home Park or Subdivision:** a parcel or contiguous parcel, of  
14 land divided into two or more manufactured home lots for rent or sale.

15 **(41) Market Value:** the building value, excluding the land, as established by what  
16 the local real estate market will bear. Market value can be established by  
17 independent certified appraisal, replacement cost depreciated by age of building  
18 (Actual Cash Value), or adjusted assessed values.

19 **(42) Master Storm Water Drainage System:** an engineered system, which may  
20 include culverts, retention areas, water control gates, control devices, earth  
21 grading and/or minimum floor elevations in development of building sites,  
22 designed to insure less than one percent (1%) annual chance of flooding of the  
23 building sites.

24 **(43) Mean Sea Level:** the average height of the sea for all stages of the tide. It is  
25 used as a reference for establishing various elevations within the floodplain. For  
26 purposes of this Ordinance, the term is synonymous with 1929 National Geodetic  
27 Vertical Datum (NGVD).

28 **(44) National Geodetic Vertical Datum or NGVD:** as corrected in the year of  
29 1929, is a vertical control used as a reference for establishing varying elevations  
30 within the floodplain. This datum is referenced on existing FIRM of FEMA.

31 **(45) New Building:** a structure that encloses an area for any use, and shall not  
32 include structures such as walls, playground equipment or gas tanks, for which the



1 "start of construction" commenced on or after the effective date of this Ordinance.  
2 The term also includes any subsequent improvements to such buildings.

3 **(46) New Construction:** any structure, including duct work and Heating,  
4 Ventilating, and Air Conditioning (HVAC) equipment, for which the "start of  
5 construction" commenced on or after the effective date of this Ordinance. The  
6 term also includes any subsequent improvements to such structures.

7 **(47) New Manufactured Home Park or Subdivision:** a manufactured home park  
8 or subdivision for which the construction of facilities for servicing the lots on which  
9 the manufactured homes are to be affixed, including at a minimum, the installation  
10 of utilities, the construction of streets, and either final site grading or the pouring of  
11 concrete pads, is completed on or after the effective date of this Ordinance.

12 **(48) Non-Residential Construction:** New construction or substantial  
13 improvement of structures not defined as "Residential Construction" and including  
14 but not limited to small business concerns and commercial hotels/motels as  
15 defined by FEMA, churches, schools, nursing homes, farm buildings, government  
16 buildings, mercantile structures, industrial plants and warehouses.

17 **(49) North American Vertical Datum or NAVD:** A proposed replacement datum  
18 of NGVD, identified by FEMA to be the reference of new FIRM from FEMA when  
19 current 1979 and 1982 flood maps are replaced.

20 **(50) Obstruction:** includes, but is not limited to, any dam, wall, wharf,  
21 embankment, levee, dike, pile, abutment, protection, excavation, channelization,  
22 bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure,  
23 vegetation or other material in, along, across or projecting into any watercourse  
24 which may alter, impede, retard or change the direction and/or velocity of the flow  
25 of water, or due to its location, its propensity to snare or collect debris carried by  
26 the flow of water, or is likely to be carried downstream.

27 **(51) Public Health, Safety and General Welfare:** conditions concerning the  
28 safety or health of an entire community or neighborhood, or any considerable  
29 number of people.

30 **(52) Recreational Vehicle:** a vehicle-type unit primarily designed as temporary  
31 living quarters for recreational, camping, or travel use, which either has its own  
32 motive power or is mounted on or drawn by another vehicle (see F.S. 320.01, as

1 amended or replaced). Such vehicles shall comply with the length and width  
2 provisions of F.S. 316.515, as amended or replaced.

3 **(53) Regulatory Floodway:** the channel of a river or other watercourse and the  
4 adjacent land areas that must be reserved in order to discharge the base flood  
5 without cumulatively increasing the water surface elevation more than twelve  
6 inches (12").

7 **(54) Repetitive Loss:** flood-related damages sustained by a property, which the  
8 National Flood Insurance Program has paid two or more flood claims of \$1,000.00  
9 or more in any given 10-year period since 1978.

10 **(55) Residential Construction:** new construction or substantial improvement of  
11 structures including but not limited to high-rise and low-rise condominium units,  
12 apartment buildings, timeshares, townhouse/rowhouse structures, residential  
13 hotels/motels and "other residential structures" as defined by FEMA, manufactured  
14 and mobile/trailer homes, single family structures and duplexes.

15 **(56) Special Flood Hazard Area or SFHA:** (see Area of Special Flood Hazard) is  
16 a geographic area identified by FEMA and the county as being low lying areas or  
17 especially susceptible to flooding and shown on the latest edition of maps (FHBM  
18 or FIRM) as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE, or V; and any area  
19 developed as building sites, without a master storm water drainage system, in  
20 unincorporated Palm Beach County outside FEMA A or V zones.

21 **(57) Start of Construction:** (for other than new construction or substantial  
22 improvement under the Coastal Barrier Resources Act P.L. 97-348, as amended  
23 or replaced), for all construction, includes substantial improvement, and means the  
24 date the building permit was issued, provided the actual start of construction,  
25 repair, reconstruction, or improvement was within 180 days of the permit date.  
26 The actual start means the first placement of permanent construction of a building,  
27 including a manufactured home, on a site, such as the pouring of slabs or footings,  
28 installation of piles, construction of columns, or any work beyond the stage of  
29 excavation or placement of a manufactured home on a foundation. Permanent  
30 construction does not include land preparation, such as clearing, grading and  
31 filling; nor does it include installation of streets and/or walkways; nor does it  
32 include excavation for a basement, footings, piers or foundations or the erection of  
33 temporary forms; nor does it include installation on the property of accessory



1 buildings, such as garages or sheds not occupied as dwelling units or not part of  
2 the main building. For substantial improvement, the actual start of construction  
3 means the first installation of any foundation, wall, ceiling, floor, or other structural  
4 part of a building, whether or not that alteration affects the external dimensions of  
5 the building, on all residential, commercial, institutional, and other buildings.

6 **(58) Structure:** that constructed by man, including gas or liquid storage tanks that  
7 are principally above ground, walls and roofed buildings.

8 **(59) Substantial Damage:** damage of any origin sustained by a structure  
9 whereby the cost of restoring the structure to its before damaged condition would  
10 equal or exceed 50 percent (50%) of the market value of the structure before the  
11 damage occurred. This term also includes structures that have incurred "repetitive  
12 loss".

13 **(60) Substantial Improvement:** any combination of repairs, reconstruction,  
14 rehabilitation, addition, alteration, or other improvements to a building taking place  
15 during a five (5) year period, in which the cumulative cost of such improvements  
16 equals or exceeds 50 percent (50%) of the market value of the building before the  
17 "start of construction" of the repair or improvement. This term does not include  
18 any repair or improvement of a structure to correct existing violations of state or  
19 local health, sanitary, or safety code specifications, which have been identified by  
20 the local code enforcement official prior to the application for the permit for  
21 improvement, and which are the minimum necessary to assure safe living  
22 conditions. For the purposes of this definition, "substantial improvement" occurs  
23 when the first installation of any foundation, wall, ceiling, floor, or other structural  
24 part of the building commences, whether or not that installation affects the external  
25 dimensions of the structure. This term includes structures that have incurred  
26 "repetitive loss" or "substantial damage," regardless of the actual repair work  
27 performed.

28 **(61) Substantially Improved Existing Manufactured Home Parks or**  
29 **Subdivisions:** the repair, reconstruction, rehabilitation or improvement of the  
30 streets, utilities and pads equals or exceeds 50 percent (50%) of the value of the  
31 streets, utilities and pads before the repair, reconstruction or improvement  
32 commenced.

1 **(62) Variance:** after a public hearing before the Flood Damage Prevention Board.  
2 a grant of relief from the requirements of this Ordinance, which permits  
3 construction in a manner otherwise prohibited by this Ordinance where specific  
4 enforcement would result in exceptional hardship.

5 **(63) Violation:** the failure of a structure or other development to be fully compliant  
6 with this Ordinance. In addition, a structure or other development without a  
7 required FEMA elevation certificate, other acceptable elevation certifications, or  
8 other evidence of compliance required in this Ordinance is presumed to be in  
9 violation until such time as that documentation is provided.

10 **(64) Watercourse:** a lake, river, creek, stream, wash, channel or other  
11 topographic feature on or over which waters flow at least periodically.  
12 Watercourse includes specifically designated areas in which substantial flood  
13 damage may occur.

14 **(65) Water Surface Elevation:** the height, in relation to NGVD of 1929, (or other  
15 datum, where specified) of floods of various magnitudes and frequencies in the  
16 floodplains of coastal or riverine areas.

17 **SECTION 7. GENERAL PROVISIONS:**

18 **A. Applicability:**

19 This Ordinance shall apply within the unincorporated areas of Palm  
20 Beach County.

21 **B. Basis for Establishing Special Flood Hazard Areas (SFHAs):**

22 SFHAs identified by FEMA in the FIS "Wave Height Analysis" for Palm  
23 Beach County, Florida Unincorporated Areas" dated April 15, 1982, together with  
24 FIRM maps of Community Panels 1201920140A, 1201920150A, 1201920160A,  
25 1201920170A, 1201920180A, 1201920185A, 1201920200A and 1201920215A  
26 and other supporting data, and any revisions thereto, are hereby adopted by  
27 reference and declared to be a part of this Ordinance and those areas developed  
28 into lots or building sites without minimum floor elevations engineered from a  
29 master storm water drainage network.

30 **C. Designation of Flood Damage Prevention Board and Administrator:**

31 The governing body of Palm Beach County hereby appoints the seven (7)  
32 members of the Construction Board of Adjustment and Appeals to act as the Flood  
33 Damage Prevention Board. The Building Official of Palm Beach County, or his/her



1 designee holding FEMA Certified Floodplain Manager designation, shall be the  
2 Flood Damage Prevention Administrator.

3 **D. Requirement for Building Permit and Elevation Confirmation:**

4 A building permit shall be required in conformance with the provisions of  
5 this Ordinance and building codes prior to the commencement of any building  
6 activities. All required minimum elevations for building floors or components shall  
7 be confirmed by a certified survey prior to subsequent building inspections.

8 **E. Compliance:**

9 No structure or land shall hereafter be located, extended, converted,  
10 developed, built or structurally altered without full compliance with the terms of this  
11 Ordinance and other applicable regulations.

12 **F. Abrogation and Greater Restrictions:**

13 This Ordinance is not intended to repeal, abrogate, or impair any existing  
14 easements, covenants or deed restrictions.

15 **G. Interpretation:**

16 In the interpretation and application of this Ordinance all provisions shall  
17 be considered as minimum requirements, liberally construed in favor of the  
18 governing body, and deemed neither to limit nor repeal any other powers  
19 granted under state statutes. The Flood Damage Prevention Administrator  
20 shall be responsible for interpretations pertaining to this Ordinance.

21 **H. Warning and Disclaimer of Liability:**

22 The degree of flood protection required by this Ordinance is considered  
23 reasonable for regulatory purposes and is based on scientific and engineering  
24 considerations. Larger floods can and will occur on rare occasions. Flood  
25 heights may be increased by man made or natural causes. This Ordinance does  
26 not imply that land outside SFHAs or uses permitted within such areas will be free  
27 from flooding or flood damages. This Ordinance shall not create liability on the  
28 part of the governing body of Palm Beach County or by any officer or employee  
29 thereof for any flood damages that result from reliance on this Ordinance or any  
30 administrative decision lawfully made thereunder.

31 **I. Penalties for Violation:**

32 Violation of this Ordinance or failure to comply with any of its requirements,  
33 including violation of conditions and safeguards established in connection with

1 grants of variances shall be enforceable pursuant to the Code Enforcement  
2 Procedures established in Chapter 162, Parts I and II, F.S., as amended or  
3 replaced and Article 10, Chapter A, of the Palm Beach County Unified Land  
4 Development Code. Each day such violation continues shall be considered a  
5 separate offense. Nothing herein contained shall prevent the Flood Damage  
6 Prevention Administrator or Palm Beach County from taking such other lawful  
7 actions as are necessary to prevent or remedy any violation, including  
8 enforcement pursuant to Section 125.69, F.S. as amended or replaced. Any  
9 person who receives a conviction pursuant to Section 125.69, F.S., as amended  
10 or replaced, for violating this Ordinance or failing to comply with any of its  
11 requirements shall, upon conviction hereof, be fined not more than \$500 or  
12 imprisoned for not more than sixty (60) days.

13 **SECTION 8. ADMINISTRATION:**

14 **A. Development Procedures:**

15 (1) Application for a building permit shall be made to the Flood  
16 Damage Prevention Administrator on forms furnished by him or her prior to  
17 any building activities. Such application may include, but shall not be  
18 limited to: plans drawn to scale, and in duplicate, showing the nature,  
19 location, dimensions, and elevations of the area in question; existing and  
20 proposed structures; existing and finished earth grades; drainage facilities;  
21 and the location of the foregoing. Specifically, the following information is  
22 required:

23 (1) Application Stage:

24 (a) On All Buildings: The proposed lowest floor elevation (including  
25 any basement floor) shall be clearly indicated on plans submitted  
26 with the completed building permit application. Building plans  
27 shall clearly indicate designed hydrostatic opening for enclosed  
28 space below minimum floor elevation. Said elevation shall be  
29 stated in reference to NGVD, and the FEMA zone designation of  
30 the site shall be stated.

31 (b) On Any Non-Residential Buildings to be Flood Proofed: A  
32 certificate from a registered professional engineer or architect



shall be submitted detailing compliance with flood proofing criteria in Sections 9B(2), 9C(2) and 9D(2) of this Ordinance.

(c) On Any Watercourse Alteration or Relocation: An analysis from a qualified registered Florida Professional Engineer of flood profiles and flow velocities shall be submitted revealing no adverse impact of proposed construction on adjacent and upstream properties.

(2) Construction Stage:

(a) Lowest Floor Elevation Prior to Placement: A certified survey or a registered Florida Professional Engineer affidavit revealing the exact lowest floor elevation, related to NGVD, shall be submitted. For slab-on-grade floors, a tie-in statement to NGVD elevation at the top of the form boards shall be acceptable.

(b) In FEMA Designated V or A Zones: FEMA "Floor Elevation Certification" and a certified final survey shall be submitted detailing the as-built lowest floor elevation, compliance details on any permitted flood proofing of any non-residential building, plus finished grade elevations at all building corners. Said certification shall be fully executed by a registered professional engineer or surveyor revealing compliance with permitted elevation minimums prior to approval of final inspections.

(c) In SFHA Outside FEMA V or A Zone: A certified survey prepared by a registered professional engineer or surveyor shall be acceptable (without the FEMA "Floor Elevation Certification") to fully reveal compliance with all minimum elevations required on permit plans.

(d) On any Flood Proofed Buildings: In addition to the requirements above, a certification of compliance from a registered professional engineer or architect on flood proofing features shall be submitted revealing completed installations of said features prior to approval of final inspections.

**B. Duties and Responsibilities of the Flood Damage Prevention**

**Administrator:**

Duties of the Flood Damage Prevention Administrator shall include, but are not limited to:

(1) review of all building permits to assure that the permit requirements of this Ordinance have been satisfied;

(2) advise permittee that additional federal, state or local permits may be required, and if such additional permits are necessary, require that copies of such permits be provided and maintained on file with the building permit;

(3) verify and record the actual elevation (in relation to NGVD) of the lowest floor on all new or substantially improved buildings, in accordance with Section 8A(2) of this Ordinance;

(4) verify and record the actual elevation (in relation to NGVD) to which the new or substantially improved non-residential buildings have been flood-proofed, in accordance with Section 8A(2) of this Ordinance;

(5) review certified plans and specifications for compliance;

(6) interpret the exact location of boundaries of SFHAs. When there appears to be a conflict between a mapped boundary and actual field conditions, the Flood Damage Prevention Administrator shall make the necessary interpretation.

(7) When BFE data or floodway data have not been provided in accordance with Section 7B of this Ordinance, the Flood Damage Prevention Administrator shall obtain, review and reasonably utilize any BFE and floodway data available from a federal, state or any other source, in order to administer the general provisions of Section 5 of this Ordinance; and shall coordinate all change requests to the FIS and FIRM or FBFM or both with the requester, State and FEMA. The Flood Damage Prevention Administrator shall also decide engineered acceptability on Alternate Methods of compliance with these regulations following procedures in Florida Building Code Sec. 103.7 as amended or replaced but this shall not grant to the Flood Damage Prevention Administrator the power to grant variances.

## **SECTION 9. PROVISIONS FOR FLOOD DAMAGE PREVENTION:**

### **A. General Standards:**

In all SFHAs the following provisions shall apply:



- 1 (1) New construction and substantial improvements shall be  
2 anchored to prevent flotation, collapse or lateral movement of the structure;
- 3 (2) Manufactured homes shall be anchored to prevent flotation,  
4 collapse, or lateral movement by methods which may include, but are not  
5 limited to, use of over-the-top or frame ties to ground anchors. This  
6 standard shall be in addition to, and consistent with, applicable state  
7 requirements for resisting wind forces;
- 8 (3) New construction and substantial improvements shall be  
9 constructed with materials and utility equipment resistant to flood damage;
- 10 (4) New construction or substantial improvements shall be  
11 constructed by methods and practices that minimize flood damage with  
12 minimum floor elevations at or above those required by any local drainage  
13 districts and at or above the minimum set forth in the following Sections 9B  
14 through 9D of this Ordinance.
- 15 (5) Electrical, heating, ventilation, plumbing, air conditioning  
16 equipment and other service facilities shall be designed and/or located so  
17 as to prevent water from entering or accumulating within the components  
18 during conditions of flooding by placement above minimum flood  
19 elevations;
- 20 (6) New and replacement water supply systems shall be designed  
21 to minimize or eliminate infiltration of floodwaters into the system in  
22 accordance with Palm Beach County Health Department regulations;
- 23 (7) New and replacement sanitary sewage systems shall be  
24 designed to minimize or eliminate any adverse impacts from infiltration of  
25 floodwaters into the systems and discharges from the systems into  
26 floodwaters;
- 27 (8) On site waste disposal systems shall be located and  
28 constructed to avoid impairment to them or contamination from them during  
29 flooding, in accordance with Palm Beach County Health Department  
30 regulations;
- 31 (9) Any alteration, repair, reconstruction or improvements to a  
32 building that is in compliance with the provisions of this Ordinance shall

1 meet the requirements of "new construction" as contained in this  
2 Ordinance;

3 (10) Any alteration, repair, reconstruction or improvements to a  
4 building that is not in compliance with the provisions of this Ordinance, shall  
5 be undertaken only if said non-conformity is not furthered, extended or  
6 replaced.

7 **B. Specific Standards in FEMA Areas: A1-99, AE or AH:**

8 In all these SFHAs, where BFE data has been provided, as set forth in  
9 Section 7B of this Ordinance, the additional following provisions shall apply:

10 (1) Residential Construction: New Buildings or substantial improvement of  
11 any residential building (or manufactured home) including duct work and  
12 Heating, Ventilating, and Air Condition (HVAC) equipment, shall have the  
13 lowest floor, including basement, elevated no lower than **twelve inches**  
14 **(12")** above the BFE and not less than **eighteen inches (18")** above LARC.  
15 Should solid foundation perimeter walls be used to elevate a residential  
16 structure on a suspended elevated floor above an open crawl space,  
17 openings sufficient to facilitate automatic equalization of flood hydrostatic  
18 forces on both sides of the exterior foundation walls shall be provided;

19 (2) Non-Residential Construction: New Buildings or substantial  
20 improvements (including duct work and Heating, Ventilating, and Air  
21 Condition (HVAC) equipment of any commercial, industrial, or non-  
22 residential building shall have the lowest floor, including basement, elevated  
23 to no lower than **twelve inches (12")** above the BFE and not less than  
24 **eighteen inches (18")** above LARC. Alternately, non-residential buildings  
25 located in all "A" Zones may be flood-proofed in lieu of being elevated,  
26 provided that all areas of the building components designed to be lower than  
27 **twelve inches (12")** above BFE or lower than **eighteen inches (18")** above  
28 LARC, are water tight with walls substantially impermeable to the passage  
29 of water, and use structural components having the capability of resisting  
30 hydrostatic and hydrodynamic loads and the effect of buoyancy. A  
31 registered professional engineer or architect shall sign, seal and certify that  
32 the standards of this subsection are satisfied. Such certification shall be



provided to the Flood Damage Prevention Administrator prior to permitting as set forth in Section 8A(2) of this Ordinance.

(3) Elevated Buildings:

(a) New construction or substantial improvements of elevated buildings that include enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls;

(b) Designs for compliance with this requirement shall be signed, sealed and certified by a professional engineer or architect and meet the following minimum criteria:

1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
2. The bottom of all openings shall be no higher than **twelve inches (12")** above earth grade inside and outside foundation walls;
3. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions;
4. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator);
5. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms;
6. Where the open height below the lowest floor elevation exceeds **six feet (6')** above the HANG, a copy of the

1                   legally recorded deed restriction prohibiting the  
2                   conversion of the area below the lowest floor to a use  
3                   or dimension contrary to the building's originally  
4                   approved design, shall be presented by the permit  
5                   holder as a condition of issuance of the final Certificate  
6                   of Occupancy or Certificate of Completion from the  
7                   County.

8           (4) Standards for Manufactured Homes and Recreational Vehicles;

9           (a) All manufactured homes placed, or substantially improved, on  
10           individual lots or parcels, in expansions to existing manufactured  
11           home parks or subdivisions, in a new manufactured home park or  
12           subdivision, or in substantially improved manufactured home parks  
13           or subdivisions, shall meet all the requirements for new construction,  
14           including elevation and anchoring and shall be elevated so that the  
15           lowest floor of the manufactured home is elevated no lower than  
16           **twelve inches (12")** above the BFE and at least **eighteen inches**  
17           **(18")** above LARC. The manufactured home chassis shall be  
18           supported by reinforced piers, or other foundation elements, of at  
19           least an equivalent strength, and not less than **thirty-six inches**  
20           **(36")** in height above the grade;

21           (b) All recreational vehicles placed on sites shall either be on the site for  
22           fewer than 180 consecutive days, or be fully licensed and ready for  
23           highway use by virtue of being on its wheels or jacking system,  
24           being attached to the site only by quick disconnect type utilities and  
25           security devices and has no permanently attached additions.

26           (5) Floodways - Located within SFHAs as established in Section 7B of this  
27           Ordinance, may be areas designated as floodways. Since the floodway is  
28           an extremely hazardous area due to the velocity of floodwaters carrying  
29           debris, potential projectiles and have significant erosion potential, the  
30           following additional provisions shall apply:

31           (a) Encroachments shall be prohibited in floodways, including fill, new  
32           construction, substantial improvements and other developments  
33           unless certification with supporting technical data by a registered



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professional engineer is provided, demonstrating that the encroachments shall not create any adverse impact by any increase in flood levels during occurrence of the base flood discharge;

(b) All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 9 of this Ordinance;

(c) Placement of manufactured homes (mobile homes) shall be prohibited in floodways except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision, provided the standards of Section 9A(2) & 9A(3) of this Ordinance and the encroachment standards of Section 9B(5a) of this Ordinance are met.

**C. Specific Standards in FEMA Area “A” Unnumbered:**

Within SFHAs established in Section 7B of this Ordinance, where no BFE data or regulatory floodway has been provided, designated as unnumbered A zones by the Federal Emergency Management Agency (FEMA), the following provisions shall apply:

(1) When BFE data or floodway data have not been provided in accordance with Section 7B of this Ordinance, the Flood Damage Prevention Administrator shall:

(a) receive, review, and reasonably utilize any BFE and floodway data available from any source, including a federal or state agency. When such BFE is utilized to obtain the elevation (in relation to the NGVD) of the lowest floor (including the basement) of all new and substantially improved structures;

(b) obtain, if the structure has been flood-proofed in accordance with the requirements of Section 9B(2) of this Ordinance, the elevation in relation to the NGVD to which the structure has been flood-proofed;

(c) maintain a record of all such information;

(d) notify, in riverine situations, adjacent communities and the Florida DCA Community Program Administrator prior to any alteration or

relocation of a watercourse, and submit copies of such notifications to FEMA;

(e) assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;

(2) When minimum floor elevation data is not available from any source, the lowest floor of the structure shall be elevated to no lower than **eighteen inches (18")** above the HANG, and at least **eighteen inches (18")** above the LARC.

#### **D. Specific Standards in FEMA Area AO:**

Located within established SFHAs as defined in Section 7B of this Ordinance are areas designated as areas of shallow flooding. These areas have flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(1) Residential: all new buildings and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to at least **twelve inches (12")** above the flood depth on the latest edition FIRM but not less than **eighteen inches (18")** above LARC. If no flood depth number is specified, the lowest floor, including basement shall be elevated no less than **twenty-four inches (24")** above the HANG, and to be at least **eighteen inches (18")** above LARC;

(2) Non-residential: all new buildings and substantial improvements of non-residential structures shall have the lowest floor, including basement, elevated to at least **twelve inches (12")** above the flood depth specified on the FIRM but not less than **eighteen inches (18")** above LARC. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least **twenty-four inches (24")** above the HANG, and shall be at least **eighteen inches (18")** above the LARC. Or, together with attendant utility and sanitary facilities, the structures may be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and



hydrodynamic loads and effect of buoyancy. Certification is required as per Section 8A(2) of this Ordinance.

**E. Specific Standards for FEMA Areas B or C:**

On sites located within FEMA designated B and C zones without a master storm water drainage system, the following provisions shall apply on all buildings: new construction or substantial improvements of any building shall have the lowest floor, including basement, elevated not lower than **eighteen inches (18")** above LARC. Flood proofing in accordance with Section 9D(2) of this Ordinance above may be used on non-residential buildings.

**F. Coastal High Hazard Areas, FEMA Zone V1-30, VE OR V:**

Located within established as defined in Section 7B of this Ordinance, are Coastal High Hazard Areas, designated as Zones V1-V30, VE, or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this Ordinance, the following shall also apply:

(1) All new buildings and substantial improvements in Zones V1-V30 and VE, V if BFE is available, shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor, excluding the pilings or columns, is elevated to at least **twelve inches (12")** above the BFE. And a signed and sealed certification from a licensed surveyor shall confirm the required elevation before approval of the floor inspection;

(2) The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent (1%) chance of being equaled or exceeded in any given year (one percent (1%) annual chance). A registered professional engineer or architect shall develop or review the structural design, specifications and plans for construction, and shall certify, by professional seal and signature, that the design and methods of construction to be used are in accordance with accepted

standards of practice for meeting the provisions of Section 9F(1) of this Ordinance;

(3) All new construction shall be located landward of the reach of mean high-tide;

(4) All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting, breakaway walls, open wood lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten (10) and not more than twenty (20) pounds per square foot. Unless a registered professional engineer or architect proves that a design proposed with more than twenty (20) pounds per square foot resistance meets the following conditions: breakaway wall collapse shall result from water load less than that which would occur during the base flood; and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effect of wind and water loads acting simultaneously on all building components (structural and non-structural). Maximum wind and water loading values to be used in this determination shall each have a one percent (1%) chance of being equaled or exceeded in any given year; The enclosed space below the lowest floor shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature controlled, or used for human habitation;

(5) Fill is prohibited for structural support of buildings;

(6) Man-made alteration of sand dunes that would increase potential flood damage is prohibited;

(7) No manufactured homes shall be placed or substantially improved upon outside manufactured home parks existing prior to



1 this Ordinance within Zones V1-V30, V, and VE on the Palm Beach  
2 County FIRM;

3 (8) Any recreational vehicle located in any established V zone as  
4 defined in Section 7B of this Ordinance shall remain fully licensed  
5 and ready for highway use. Such vehicles shall remain on its  
6 wheels or jacking system, be attached to the site utilities only by  
7 quick disconnect type devices without any permanent accessory  
8 attachments, such as carports or screen rooms;

9 (9) Although raised septic mounds are allowed in any established V  
10 zone as defined in Section 7B of this Ordinance, they shall not be  
11 under buildings or directly against any building foundation wall. Any  
12 such mounds shall be placed so as to avoid any adverse impacts  
13 from worsened flood conditions for any building.

14 **G. Standards for Streams With Established BFE Without Regulatory**  
15 **Floodways:**

16 Within established SFHAs as defined in Section 7B of this Ordinance,  
17 where streams exist for which BFE data has been provided by FEMA without the  
18 delineation of the regulatory floodway, the following provisions shall apply:

19 (1) Until a regulatory floodway is designated, no new construction,  
20 substantial improvements, or other development, including fill, shall  
21 be permitted within established SFHAs as defined in Section 7B of  
22 this Ordinance, unless it is demonstrated that the cumulative effect of  
23 the proposed development, when combined with all other existing  
24 and anticipated development will not increase the water surface  
25 elevation of the base flood more than **twelve inches (12")** at any  
26 point within Palm Beach County;

27 (2) Development activities within established SFHAs as defined in  
28 Section 7B of this Ordinance, which increase the water surface  
29 elevation of the base flood by more than **twelve inches (12")**, may  
30 be allowed, provided the developer or applicant first applies, with  
31 Palm Beach County endorsement, for a conditional FIRM revision,  
32 and receives the approval of FEMA.

33 **H. Standards for Subdivision Proposals, GENERAL:**

1 All new subdivision proposals:

2 (1) shall be consistent with the need to minimize flood damage;

3 (2) shall have public utilities and facilities such as sewer, gas,  
4 electrical and water systems located and constructed to minimize  
5 flood damage;

6 (3) shall have adequate master drainage systems provided to  
7 minimize exposure to flood damage; and

8 (4) shall have BFE data provided for subdivision proposals and  
9 other proposed development proposals, including manufactured  
10 home park and subdivisions, that exceed fifty (50) lots or five (5)  
11 acres, whichever is the lesser, stating minimum floor elevations to  
12 reduce flooding probability to less than one percent (1%) per year;  
13 and the standards of South Florida Water Management District,  
14 Palm Beach County Land Development Division and local  
15 drainage districts shall be met.

16 **I. Critical Facility:**

17 Construction of new critical facilities shall be, to the extent possible, located  
18 outside the limits of SFHAs. Construction of new critical facilities may be  
19 permissible within the SFHA if no feasible alternative site is available. Critical  
20 facilities constructed within SFHAs shall have the lowest floor elevated three (3) or  
21 more feet above the level of the BFE at the site. Flood-proofing and sealing  
22 measures shall be taken to ensure that toxic substances will not be displaced by  
23 or released into floodwaters. Access routes elevated to or above the level of the  
24 BFE shall be provided to all critical facilities.

25 **SECTION 10. GRADING AND EARTH FILL RESTRICTIONS:**

26 **A. Grading:**

27 On all new permitted construction, regardless of flood zone designation,  
28 grading shall keep all rainfall and runoff flow on the building site, until discharged  
29 into the roadway drainage system or to public drainage ways adjacent to the  
30 property lines. Berms shall be constructed along lot lines, if necessary, to prevent  
31 storm water flow directly onto adjacent properties. Erosion sedimentation off the  
32 building site shall be controlled until vegetative cover is established. The Flood



1 Damage Prevention Administrator may require grading plans showing pre-  
2 construction and proposed finish earth grades.

3 **B. Earth Fill:**

4 On all new construction, earth fill brought onto the site of construction from  
5 another site shall be minimized to maximize existing floodwater storage capacity.  
6 Maximum volume of imported fill shall be limited to that necessary to raise an  
7 earth pad to elevate the slab-on-grade, not more than **six inches (6")** above  
8 minimum floor elevation set in this Ordinance, with side slopes of the pad of 1:5 to  
9 1:3 starting **ten feet (10')** from the slab edges.

10 **C. Exceptions From This Section's Requirements:**

11 (1) Only on building sites requiring raised septic mounds to Palm  
12 Beach County Health Department minimum elevations, will  
13 additional volume of fill be allowed to construct the mound.

14 (2) Earth fill dug from an on-site excavation shall be unregulated if  
15 in accordance with Palm Beach County Unified Land Development  
16 Code regulations and provided finish grade directs lot drainage back  
17 into the excavation;

18 (3) Any volume of fill for placement inside the perimeter foundation  
19 walls to raise an interior concrete slab to any higher elevation shall  
20 be allowed;

21 (4) Fill shall be permitted to raise earthen berms on side property  
22 lines to prevent drainage onto adjacent lots, provided said berms  
23 have side slopes of 1:5 to 1:3, with a triangular cross section;

24 (5) Fill shall be allowed inside retaining walls for American  
25 Disabilities Act (ADA) required building access ramps or driveway  
26 ramps;

27 (6) Fill necessary to direct on site drainage to the public roadway or  
28 drainage system shall also be permitted;

29 (7) Minimum fill for sites that have sloping topography that do not  
30 store floodwater shall be permitted. Any fill in excess of this  
31 minimum grading requirement shall be subject to approval of the  
32 Flood Damage Preventions Board as a variance;

(8) Fill necessary for critical facilities and public service buildings;  
and  
(9) Areas included within a South Florida Water Management District permit shall be filled and graded in accordance with the fill and grading design conditions identified in said permit even when elevations are more than **six inches (6")** above the flood minimum set in Section 10B of this Ordinance.

## **SECTION 11. APPEAL AND VARIANCE PROCEDURES:**

### **A. Flood Damage Prevention Board:**

The Flood Damage Prevention Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Flood Damage Prevention Administrator in the enforcement or administration of this Ordinance and shall decide any variance request following procedures in Section 108, Florida Building Code as amended by Palm Beach County.

### **B. Appeals Procedures:**

(1) A request for appeal to the decision of the Flood Damage Prevention Administrator enforcing the provisions of this Ordinance shall include the Ordinance section of the appeal, and the applicant's technical basis of contesting the decision of the Flood Damage Prevention Administrator. The appeal is to be filed in writing within thirty (30) calendar days after the decision is rendered by the Flood Damage Prevention Administrator whenever any one of the following conditions are claimed to exist:

(a) The Flood Damage Prevention Administrator rejected or refused to approve the applicant's request;

(b) The provisions of this Ordinance do not apply to the applicant's specific case;

(c) That an equally good or more desirable method can be employed and fully meet the intent of this Ordinance, which the Flood Damage Prevention Administrator has rejected;

(d) The true intent and meaning of this Ordinance or any of the regulations there under have been misconstrued or incorrectly interpreted.



1 (2) The Flood Damage Prevention Board shall hear appeals  
2 requests at the next available meeting within sixty (60) days of date of  
3 appeal;

4 (3) At the conclusion of the hearing, the Flood Damage Prevention  
5 Board shall orally render an order based on evidence entered into the  
6 record. An order setting forth findings of fact and conclusion of law shall  
7 then be mailed to the appellant.

8 (4) Any persons aggrieved by an appeals decision of the Flood  
9 Damage Prevention Board may appeal such decision to the Circuit Court  
10 of Palm Beach County Florida by writ of Certiorari; any appeal filed  
11 pursuant to this article shall be considered timely if filed within thirty (30)  
12 calendar days of the execution of the order to be appealed.

13 **C. Variance Procedures:**

14 (1) An initial request for a variance from the provisions of this  
15 Ordinance shall be filed in writing by the affected party with the Flood  
16 Damage Prevention Administrator;

17 (2) The Flood Damage Prevention Board shall hear variance  
18 requests at the next available meeting. In acting upon variance  
19 applications, the Flood Damage Prevention Board shall consider all  
20 technical evaluations, all relevant factors, and standards specified in other  
21 sections of this Ordinance; and

22 (a) The danger that materials may be swept onto other lands to  
23 the injury of others;

24 (b) The danger to life and property due to flooding or erosion  
25 damage;

26 (c) The susceptibility of the proposed facility and its contents to  
27 flood damage and the effect of such damage on the  
28 individual owner;

29 (d) The importance of the services provided by the proposed  
30 facility to the community;

31 (e) The necessity to the facility of a waterfront location;

32 (f) The availability of alternative locations for the proposed use  
33 which are not subject to flooding or erosion damage;

- 1 (g) The compatibility of the proposed use with existing and  
2 anticipated development;
- 3 (h) The relationship of the proposed use to the comprehensive  
4 plan and floodplain management program for that area;
- 5 (i) The safety of access to the property in times of flood for  
6 ordinary and emergency vehicles;
- 7 (j) The expected heights, velocity, duration, rate of rise, and  
8 sediment of transport of the floodwaters and the effects of  
9 wave action, if applicable, expected at the site;
- 10 (k) The costs of providing governmental services during and  
11 after flood conditions, including maintenance and repair of  
12 public utilities and facilities such as sewer, gas, electric, and  
13 water systems, and streets and bridges; and
- 14 (l) The negative effect a variance may have on the county  
15 rating under the FEMA Community Rating System.

16 (5) Any persons aggrieved by an appeals decision of the Flood  
17 Damage Prevention Board may appeal such decision to the Circuit Court  
18 of Palm Beach County Florida by writ of Certiorari; any appeal filed  
19 pursuant to this article shall be considered timely if filed within thirty (30)  
20 days of the execution of the order to be appealed.

21 **D. Conditions for Variances:**

22 Variances shall only be issued when there is:

- 23 (1) A showing of good and sufficient cause;
- 24 (2) A determination that failure to grant the variance would result in  
25 exceptional hardship as defined in Section 6 of this Ordinance;
- 26 (3) A determination that the granting of a variance will not result in  
27 increased flood heights, additional threats to public expense, create  
28 nuisance, cause fraud on or victimization of the public or conflict with  
29 existing laws or ordinances;
- 30 (4) Variances shall only be issued upon a determination that the  
31 variance is the minimum necessary deviation from the requirements of  
32 this Ordinance;



1 (5) Any applicant to whom a variance is granted shall be given  
2 written notice specifying the difference between the BFE and the elevation  
3 to which the lowest floor is to be built, and stating that the cost of flood  
4 insurance will be commensurate with the increased risk resulting from the  
5 reduced lowest floor elevation;

6 (6) Variances shall not be granted after-the-fact;

7 (7) The Flood Damage Prevention Board may attach such  
8 conditions to the granting of variances, as it deems necessary to further  
9 the objective of this Ordinance. The Flood Damage Prevention  
10 Administrator shall maintain the records of all variance actions.

11 **E. Variance Notification:**

12 Any applicant to whom a variance is granted, shall be given a written order  
13 bearing the signature of the Flood Damage Prevention Board Chairperson that the  
14 issuance of a variance to construct a structure failing to meet requirements of this  
15 Ordinance may result in substantial increase in flood insurance premium rates,  
16 and such noncompliance construction increases risks to life and property. A copy  
17 of the notice shall be recorded by the Flood Damage Prevention Administrator in  
18 the Office of the Palm Beach County Clerk and shall be recorded in a manner so  
19 that it appears in the chain of title of the affected parcel of land in the official  
20 records of Palm Beach County. The Flood Damage Prevention Administrator will  
21 maintain a record of all variance actions, including justification for their issuance,  
22 and report such variances issued in its biennial report submitted to FEMA.

23 **F. Historic Structures:**

24 Variances may be issued for the repair or rehabilitation of historic structures  
25 upon a determination that the proposed repair or rehabilitation shall not preclude  
26 the structure's continued designation as a historic structure.

27 **G. Structures in Regulatory Floodway:**

28 Variances shall not be issued within any designated floodway if any impact  
29 in flood conditions or increase in flood levels during the base flood discharge  
30 would result.

31 **SECTION 12. PROVIDING FOR A SAVINGS CLAUSE:**

32 Notwithstanding anything to the contrary, all provisions of Article VI,  
33 Chapter 7 of the Palm Beach County Code, codifying Ordinance No. 88-3, are

specifically preserved and remain in full force and effect for the limited purpose of enforcing any alleged violations, variances and appeals granted or pending, of said Code, which occurred prior to its repeal.

**SECTION 13. PROVIDING FOR CODES IN CONFLICT:**

Should other local laws and ordinances conflict with any provisions of this Ordinance, the more stringent restrictions shall prevail.

**SECTION 14. SEVERABILITY:**

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**SECTION 15. PROVIDING FOR INCLUSION IN THE ULDC:**

The provisions of this Ordinance shall become and be made part of the ULDC (Unified Land Development Code). The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**SECTION 16. EFFECTIVE DATE:**

The provisions of this Ordinance shall become effective July 1, 2004.

**APPROVED and ADOPTED** by the Board of County Commissioners of Palm Beach County, Florida, on this 16 day of June, 2004.

DOROTHY H. WILKEN, CLERK

PALM BEACH COUNTY, FLORIDA,  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

By: Linda C. Hick

Deputy Clerk

By: [Signature]

Chair

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: [Signature]

Assistant County Attorney

**EFFECTIVE DATE:** On the 1<sup>st</sup> day of July, 2004

STATE OF FLORIDA, COUNTY OF PALM BEACH  
I, DOROTHY H. WILKEN, ex-officio Clerk of the  
Board of County Commissioners certify this to be a  
true and correct copy of the original filed in my office  
on June 16, 2004  
DATED at West Palm Beach, FL on 7/13/04  
DOROTHY H. WILKEN, Clerk  
By: Diane Brown D.C.